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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,022	04/12/2005	Adras Montvay	DE 020232	4677
24737 7590 09/10/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
SHELEHEDA, JAMES R				
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2424				
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09/10/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/531,022

**Applicant(s)**

MONTVAY ET AL.

**Examiner**

JAMES SHELEHEDA

**Art Unit**

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Interval Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 08/04/10 have been fully considered but they are not persuasive.

On pages 5-6, applicant traversed the Official Notice taken for "wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion", which was indicated in the rejection as being met by a system that sorts the programming according to time relative to the current time.

In response, applicant is directed to Rowe et al. (5,812,123), hereby relied upon for disclosing "wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion" as he sorts the programming within the program guide chronologically, such that programming occurring in the current time period is listed at the top of the guide and programming occurring later in time relative to the current time is listed farther down the guide (see Fig. 2-3; column 13, lines 25-65).

Additionally, applicant is directed to Lemmons et al. (US 2003/0115603 A1) for also disclosing sorting programming based upon telecast time (paragraph 81).

On pages 6-7, applicant argues that sorting by start time is a "positive criterion" and not a negative criterion and that "a user that sorts a list with a criterion that they want listed first is positive."

In response, it is noted that while applicant has arbitrarily declared that this type of sorting would only be a "positive" criterion, there is absolutely no basis for this statement. Any programming occurring in the future would be meeting a "negative" criterion, as they are not desired and do not match the current time. Thus, they are listed farther down the guide listing. If the program is not scheduled to begin for 2 hours, the program is meeting a "negative" criterion, by being temporally offset from the current time by 2 hours. This criterion is "temporally limited" as the program will eventually reach the top of the programming list as the current time approaches the broadcast time of the program. Therefore, applicant's arguments are not convincing. As the combination meets the broad claim limitations.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (Maissel) (US 2004/0049787 A1) (of record) in view of Shah-Nazaroff et al. (Shah-Nazaroff) (6,317,881) (of record) and Rowe et al. (Rowe) (5,812,123).

As to claim 1, Maisel discloses a method of controlling the program selection at the receiver (customization of the program guide; paragraphs 134-147) of at least one broadcast medium (television network; paragraph 101), the method comprising the steps of:

managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) accordance with predetermined criteria (contained within preference profiles; paragraph 134), and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), using a separate enquiry of the other users (paragraph 124); and

allowing the user to allow a user to navigate through the list (paragraph 201) of preferred programs in accordance with the predetermined criteria (paragraph 134-147), he fails to specifically disclose wherein the method includes a separate enquiry to at least one other user for input and wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion.

In an analogous art, Shah-Nazaroff discloses a system to identify preferred programming (column 2, lines 43-61) which will separately question a plurality of different users of the system (column 3, lines 47-column 4, lines 54) so as to evaluate and rate the programming (column 5, line 8-column 6, line 22) for the typical benefit of providing a more accurate system for recommending content (column 2, lines 43-61 and column 5, line 8-column 6, line 22).

Additionally, in an analogous art, Rowe discloses a system for managing a list of programs (column 2, lines 35-52) wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion (sorting programming by time, so that programming occurring later relative to the current time is displayed at a greater distance than programming occurring earlier; Fig. 2-3; column 13, lines 25-65) so as to provide a more user friendly system by easily allowing the viewer to identify which programs are currently playing and which programs require the viewer to wait some period of time until they begin (Fig. 2-3; column 13, lines 25-65).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein the method includes a separate enquiry to at least one other user for input, as taught in combination with Shah-Nazaroff, for the typical benefit of providing a more accurate system for recommending content.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel and Shah-Nazaroff's system to include wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion, as taught in combination with Rowe, for the typical benefit of providing a more accurate system for recommending content.

As to claim 2, Maissel, Shah-Nazaroff and Rowe disclose wherein the program evaluation is gained from an inquiry of evaluation notes by other users (paragraph 124, 134,154 and column 3, lines 47-column 4, lines 54, column 5, line 8-column 6, line 22).

As to claim 3, Maissel, Shah-Nazaroff and Rowe disclose wherein at least a part of the predetermined criteria is based on information about:

explicitly predetermined user preferences (paragraph 124); and  
implicitly gained user preference (paragraph 123).

As to claim 4, Maissel, Shah-Nazaroff and Rowe disclose wherein the criteria are weighted adaptively (paragraph 169).

As to claim 5, Maissel, Shah-Nazaroff and Rowe disclose wherein control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C).

As to claim 6, while Maissel discloses a method of controlling the program selection at the receiver of at least one broadcast medium, in which a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) is managed in accordance with predetermined criteria (contained within preference profiles; paragraph 134), wherein at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), and in which control

inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C), wherein a new program is added to the list (paragraph 134, 135 and 138), when its limits are exceeded when navigating through said list (program viewing which exceeds a set minimum time period; paragraph 178), he fails to specifically disclose wherein the method includes a separate enquiry to at least one other user for input.

In an analogous art, Shah-Nazaroff discloses a system to identify preferred programming (column 2, lines 43-61) which will separately question a plurality of different users of the system (column 3, lines 47-column 4, lines 54) so as to evaluate and rate the programming (column 5, line 8-column 6, line 22) for the typical benefit of providing a more accurate system for recommending content (column 2, lines 43-61 and column 5, line 8-column 6, line 22).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein the method includes a separate enquiry to at least one other user for input, as taught in combination with Shah-Nazaroff, for the typical benefit of providing a more accurate system for recommending content.

As to claim 8, Maissel, Shah-Nazaroff and Rowe disclose wherein program information is supplied when a program is selected from the list (paragraph 201).

As to claim 9, while Maissel discloses a receiver for at least one broadcast medium (110, Fig. 1; paragraph 101), comprising a processing unit (paragraph 102) for



managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) in accordance with predetermined criteria (contained within preference profiles; paragraph 134), where at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), wherein the processing unit has an input for information signals relating to the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), he fails to specifically disclose wherein the method includes a separate enquiry to at least one other user for input.

In an analogous art, Shah-Nazaroff discloses a system to identify preferred programming (column 2, lines 43-61) which will separately question a plurality of different users of the system (column 3, lines 47-column 4, lines 54) so as to evaluate and rate the programming (column 5, line 8-column 6, line 22) for the typical benefit of providing a more accurate system for recommending content (column 2, lines 43-61 and column 5, line 8-column 6, line 22).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein the method includes a separate enquiry to at least one other user for input, as taught in combination with Shah-Nazaroff, for the typical benefit of providing a more accurate system for recommending content.

As to claim 10, Maissel, Shah-Nazaroff and Rowe disclose a method as claimed in claim 1 (see claim 1 above), or a receiver as claimed in claim 9 (see claim 9 above), wherein the broadcast medium is television (paragraph 101).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/  
Primary Examiner, Art Unit 2424

JS